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# STUDIORUM

## POLICY BRIEF [10.04.2009]

### Human Rights in Patient Care - Policy and Practice in Macedonia

#### Law on Protection of Patients Rights

The issue of protection of patients' rights in Macedonia was not very long promoted in public debates when it reached the political agenda as one of the eye-capturing issues for a populist policy. In late 2006 the process of preparation of Draft-Law for protection of patients rights has begun with a comprehensive legislation review of neighboring countries' models and implementation successes and failures; through an extended but also a reiterative process of writing and debate, the Law has finally been adopted by the Government and endorsed by the Parliament in July 2008.

One of the most quoted reasons for preparation and adoption of this law was narrowing the gap with the EU legislation, although this law was not directly related to the EU accession criteria; yet, the dispersed regulation of existing patients' rights in line with some newly established ones in this sphere was in a way a good start to align with the cross-border healthcare and other health-related directives of EU, standing in line for harmonization.

The Law accommodates a number of previously existing rights that were scattered in other health-related legislation (such as right to preventive services, right to choice of primary healthcare physician, right to compensation, etc.), but it also introduces some new rights aiming at improvement of quality of care, including the right to privacy and confidentiality, right to informed consent, right to refuse medical information or medical intervention, and so forth.

An interesting and very powerful novelty introduced with this Law are the patients' rights promotion, enforcement and control mechanisms, represented through the establishment of an institution of advisor on patients rights in every healthcare setting, appointed by the Minister of Health, and the obligation for establishment of National and Municipality Committees for promotion and protection of patients rights; both institutions have only advisory power, but their role is more of a mediation type.

The law, however does not distinguish between the adult and minor patients, the latter always being duly represented through their adult parent, custodian or legal guardian.

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## **ByLaws and further implementation**

With the enactment of the Law, the Ministry of Health undertook the responsibility to legislatively and operationally support the process - drafting and adoption of bylaws and other legislative documents, appointment and training of advisors for patients' rights among others. Further, the healthcare facilities had to adjust their house rules and to provide space and other conditions for hosting the advisor. The adjustment period proscribed in the law is six months from the adoption - rather short process for the size of activities foreseen.

In reality, however, almost a year after the law was put into force, the Ministry has managed to educate/train insufficient number of advisors, therefore holding the process until enough persons are ready to start this noble mission.

Campaigns that have been intertwining as supportive activity, have been mostly on the side of informing the patients of general rules of the game, not explaining details of the rights or obligations for that matter.

Health professionals i.e. medical doctors healthcare facility managers and so forth have still not been the target group for any campaign or training on the new rights or the new distribution of responsibilities imposed by the law - among which, a clearer line is drawn between the medical and the non-medical responsibilities, the latter mostly transferred to the healthcare settings.

The inspection services have adopted the law in their rules, but still, no training has been provided to sensitize the inspectors about the rights of the patients, and with the fact that most of the inspectors are medical doctors by profession, it is understandable how the paternalistic approach in healthcare is still protected and promoted.

Mass media have made almost no efforts for promotion of this law and of the new concept it brings; most of the efforts were financially motivated, i.e. paid campaign and commercials by the relevant authorities. The professional and specialized media have also made some efforts, but without vested interest, it was difficult to focus on rights of the others, i.e. patients.

## **Children's rights**

Despite extended debates during the time of drafting of this Law on whether children should be perceived as special category of patients, alongside mentally ill and vulnerable groups, it has been decided that children are well represented through their parents or legal custodians, and should not be separated from other patients. This approach and the way in which the law has been structured and adopted, will require additional fine-tuning exercise with the international documents related to children's rights, especially those that have been signed and ratified by Macedonia. Examples include medical situations of reproductive nature in the so-called semi-adult age (16-18 or 14-18 in some countries) where informing the parent or legal custodian has other implications on the individual's life.

### **“Law on Doctors”**

The Enactment of the Law on protection of patients’ rights had raised the spirits in the professional community that is now asking for a new so called “Law on Doctors”. Legitimate as it is, this idea was attempted to be addressed by the civil society; the doctors when asked what this Law should contain, gave answers mostly leading into the existing Law on Working Relations.

Our proposal is that this new “Law on Doctors” - or whatever will be decided to be named, as the title is already discriminating other medical professionals, that might also require separate laws in the future - should regulate a more important issue of insurance from malpractice, pulling the leg for the upcoming era of standardization of medical care in Macedonia.